New York State Office of Children & Family Services

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November 19, 2009

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: GN Docket Nos. 09-47, 09-51, 09-137; CC Docket No. 02-6; and
WC Docket No. 05-195

Comments – NPB Public Notice # 15

Dear Ms. Dortch:

This responds to the Public Notice released by the Federal Communications Commission on November 3, 2009 seeking comments on broadband needs in education, including changes to the E-rate program to improve broadband deployment.

The New York State Office of Children and Family Services (OCFS) writes to provide information, as well as to express its concern regarding possible changes that could negatively impact its provision of services to support the education and technology needs of students and teachers in OCFS schools. As requested, those provisions for which comments are provided are set forth in the order in which they appear in the Public Notice.

Inquiry:

We seek information that would enable us to better understand at a more granular level what broadband services eligible applicants are buying today. Overall, what percentage of priority 1 funding is subsidizing broadband services at what speed levels, and what percentage is subsidizing basic voice service (wireline or wireless)? Can we segment the applicant community that receives discounts on higher capacity broadband services based on specific characteristics (such as number of students, rural vs. urban, discount level, etc.)?

OCFS response:

Broadband services ranging in speed from 1.5 mbs to 100 mbs comprise 62.5% of the OCFS Priority 1 award for the last funding year, and basic voice service comprise 37.5% of the award. OCFS runs a consortium of schools with a 90% discount level, so segmentation of the applicant

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community nationwide might result in a lower amount going to OCFS, but would not result in any internal relative change.

Inquiry:

We seek comment on program modifications to maximize the use of broadband connections that are subsidized by the E-rate program. Recognizing that the statute requires that discounts be provided on services used for "educational purposes," we seek information on whether, and if so, how, past interpretations of the "educational purposes" requirement have restricted demand aggregation at the community level to support higher capacity broadband. For example, the program could be modified to allow for use of broadband facilities at schools by the general community, rather than just by school faculty and students. We seek specific examples of whether and if so, how, expanding the permissible use of E-rate supported services could confer benefits to a larger community or encourage partnerships with private or public organizations to pool resources to maximize broadband utilization. What practical or operational impact would such a change have?

OCFS response:

The OCFS personal computers using E-rate-funded broadband access are in OCFS schools, which are not open to the general community. There would therefore be no community benefit from this proposal, and it could in fact adversely affect OCFS students if part of the limited pool of funds were to be used, without a significant increase in funding, to provide funding to other applicants for community access. Some OCFS students who have completed their secondary school education or attained a G.E.D. take college courses; it would be beneficial to make such courses fundable for secondary schools.

Inquiry:

We seek comment on any legislative changes that would expand the classes of eligible users. For example, the statute currently limits E-rate support to elementary schools and secondary schools, which are defined by each individual state. What would the impact be of modifying the statute to permit colleges, community colleges, pre-kindergarten, Headstart, or other entities to participate in the E-rate program?

OCFS response:

Expansion to allow other entities to participate would have no beneficial effect on OCFS. It would be detrimental to the OCFS elementary- and secondary-school student population if a limited pool of funding was to be divided among a larger number of applicants. The #1 problem faced by the E-rate program today is the lack of adequate funding; no thought

should be given to expanding E-rate support to a broader base of applicants until adequate funding for existing services and applicants can be assured.

Inquiry:

To what extent does the fact that the E-rate program does not currently fund computers and other end user equipment inhibit the use of broadband by schools and libraries? Likewise, to what extent does the fact that the E-rate program does not currently fund training for teachers or librarians in the use of technology inhibit the use of broadband by schools and libraries? We seek specific information regarding what types of services are not available to teachers, students and library patrons due to lack of funding for end user equipment and training. If the E-rate program were to fund computers and training, what would the projected demand be? From a policy perspective, what are the potential negative consequences if such a change were adopted?

OCFS response:

No thought should be given to expanding E-rate support to computers and/or staff training until adequate funding for existing services and applicants can be assured. If increased funding for the cost of computers and training is made available OCFS students could stand to benefit by the acquisition of personal computers more able to make optimal educational use of broadband connectivity. The computers on the OCFS E-rate network provide essential learning tools for OCFS students, over 50% of whom have been identified as having a disability and requiring special education services. The computers provide access to multimedia instructional programs and distance learning programs, which use the computers extensively to assist these students in achieving their educational goals by instructing them and utilizing new, innovative and highly motivational methods.

Inquiry:

Currently, the program's funding varies for applicants based on the number of their students who qualify for free or reduced lunch and based on their geographic location. Using this measure, discounts range from 90 percent to 20 percent of the pre-discount price for eligible services, with the poorest schools receiving funding to pay for 90 percent of eligible services. Some rural schools receive additional discounts. The Commission could recalculate these E-rate discount levels to factor in not just poverty and whether the school is located in a rural area, but also whether the entity lacks broadband services. In addition, the Commission could change its priority structure to give preference for those schools that have not received funding for internal connections in several years.

We seek comment on the extent to which schools that have not received funding for internal connections (Priority 2 funding) need to improve their internal connections in order to most efficiently use their broadband connections now and in the future.

OCFS response:

While upgrading of Internal Connections is important to support current initiatives to improve services for students in OCFS schools, the fact that these generally already have some broadband access, and that OCFS's Internal Connections funding has been utilized to the extent possible, means that part of the limited funding would likely be directed to other applicants.

Inquiry:

To what extent does the annual E-rate funding cap of $2.25 billion limit the extent of broadband deployment by eligible schools and libraries? What are the financial or programmatic implications of increasing the cap to fund additional services not currently covered by E-rate? What are the implications of indexing the cap to inflation? Would there be specific implementation issues that would arise related to such changes?

OCFS response:

The main problem faced by E-rate today is the lack of adequate funding. To more fully support broadband deployment in all schools and libraries, the annual funding cap must be raised, at least in line with inflation since the program began. One important objective should be to provide Priority 2 funding to a broader spectrum of existing applicants.

Inquiry:

To the extent the Commission modifies its E-rate rules to encourage additional requests for funding for broadband services under priority 1, how would that change likely impact the availability of funding for priority 2 services?

OCFS response:

While additional applications for Priority 1 services would likely make it even more difficult for applicants under the 90% discount threshold to receive funding for Priority 2 services, OCFS currently receives the 90% discount for all the eligible Priority 1 and Priority 2 services. It is possible that additional applications for Priority 1 services would result in no funds being available for Priority 2 services, even for applicants meeting the 90% discount threshold, and in the funding for Priority 1 services (for

only those meeting the 90% discount threshold) being divided among more applicants.

Inquiry:

The Commission could decrease the discount levels for basic telecommunications, or otherwise modify the existing discount levels, to increase the amount of E-rate funds available for broadband deployment. What would be the effect of such a change?

OCFS response:

Since OCFS receives a 90% discount for all of its schools for both basic telecommunications and broadband service, any such change to decrease the discount for basic telecommunications would likely reduce the total E-rate funding available for OCFS schools. OCFS does not favor reducing the discount rate.

For the reasons set forth above, OCFS asserts that the annual funding cap must be raised, at least in line with inflation since the program began, without adding any eligible applicants or services. If a broader base of applicants or services is to be permitted, there should be further funding provided beyond that.

Should you have any additional questions or concerns, please contact Dee Alexander, OCFS Federal Liaison, at 518-473-1682.

Sincerely,

William T. Gettman, Jr.
Executive Deputy Commissioner